

<sup>1</sup> K.S.A. 1999 Supp. 44-510(a).

implicit in the question of whether claimant suffers permanent impairment, but, as claimant's counsel points out, if that was the intent of the order the examiner may likewise be confused.<sup>2</sup>

Whether respondent is responsible for payment of the requested preliminary hearing benefits is the only issue raised by claimant for review. Respondent raises the issue of the Appeals Board's jurisdiction to decide this question on an appeal from a preliminary hearing order. Although respondent also argues the Appeals Board is likewise without jurisdiction to review the ALJ's interlocutory order for an IME, it does not appear that claimant is specifically challenging that order or the ALJ's authority to enter such an order. Claimant's letter brief describes the issue for review as follows:

Claimant contends that Administrative Law Judge Fuller exceeded her jurisdiction in denying the relief requested at a Preliminary Hearing held on April 20, 2000. Specifically, Claimant contends that Administrative Law Judge Fuller exceeded her jurisdiction by failing to follow established Kansas law with respect to the authorization of a physician in a workers' compensation claim.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Appeals Board has limited jurisdiction on appeals from preliminary hearing orders.<sup>3</sup> The Appeals Board may review allegations that the ALJ exceeded her jurisdiction, including allegations that the ALJ erred on jurisdictional issues listed in K.S.A. 1999 Supp. 44-534a. The issue presented by claimant in this appeal is not subject to review at this stage of the proceedings.

Further, to the extent the ALJ's Order for Independent Medical Examination may be at issue, the Appeals Board has previously held such interlocutory orders are not subject to review until the time of final award.<sup>4</sup>

**WHEREFORE**, the Appeals Board finds that it does not have jurisdiction to review the April 27, 2000, Order for Independent Medical Examination entered by Administrative Law Judge Pamela J. Fuller and that this appeal should be, and is hereby, dismissed.

**IT IS SO ORDERED.**

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<sup>2</sup> The primary issue at preliminary hearing was whether or not claimant was at maximum medical improvement. In fact, respondent specifically requested that the Judge send claimant for a court-ordered IME to determine whether Ms. Williamson is at MMI.

<sup>3</sup> K.S.A. 1999 Supp. 44-551(b)(2)(A).

<sup>4</sup> See Capulli v. The Boeing Company, WCAB Docket No. 233,891 and 247,579 (March 2000) and Burton v. Labor Ready, Inc., WCAB Docket No. 225,093 (Oct. 1999).

Dated this \_\_\_\_ day of July 2000.

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BOARD MEMBER

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BOARD MEMBER

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c:     Lawrence M. Gurney, Wichita, KS  
       D. Shane Bangerter, Dodge City, KS  
       Pamela J. Fuller, Administrative Law Judge  
       Philip S. Harness, Director